

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED

SEP 09 2019

Clerk, U S District Court
District Of Montana
Billings

JAMES L. BARKER, JEANNE A.
BARKER,

Plaintiffs,

vs.

BANK OF AMERICA, N.A., CIT
BANK, N.A., ONEWEST BANK,
FIRST AMERICAN TITLE
COMPANY OF MONTANA, INC.,
Trustee, and CHARLES PETERSON,
Trustee,

Defendants.

CV 17-21-BLG-SPW

ORDER ADOPTING
MAGISTRATE'S FINDINGS
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on August 12, 2019. (Doc. 59.) The Magistrate recommended the Court grant CIT's Motion to Dissolve Injunction (Doc. 43) and Motion to Dismiss (Doc. 46) with prejudice. (Doc. 59 at 29.)

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313

(9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error. The Court concurs with the Magistrate and holds the Plaintiffs’ Second Amended Complaint (Doc. 36) fails to state a claim upon which relief can be granted and the applicable statutes of limitations bar Plaintiffs’ claims. Accordingly,

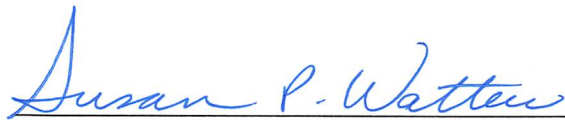
IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 59) are ADOPTED IN FULL.

IT IS FURTHER ORDERED:

- (1) CIT’s Motion to Dismiss (Doc. 46) is GRANTED;
- (2) Plaintiffs’ Second Amended Complaint (Doc. 36) is DISMISSED with prejudice; and
- (3) CIT’s Motion to Dissolve Injunction (Doc. 43) is GRANTED.

The clerk shall enter judgment in favor of the Defendants.

DATED this 9th day of September, 2019.



SUSAN P. WATTERS
United States District Judge